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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

**SHIGERU HATAKENAKA**

Serial No: 09/618,306

Filed: July 18, 2000

For: **VINEGAR USING SEA WATER AND  
SEASONING THEREOF**

Examining Group: 1700

Attention:: Ms. Freda Nelson

**RESPONSE**Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

On February 14, 2003, Applicant filed a divisional application under 37 CFR 1.53(d) and attached hereto is a copy of that request. On April 1, 2004, the undersigned received a communication from Ms. Freda Nelson of Examining Group 1700 dated March 26, 2004 and the notice indicated that the divisional application filed on February 14, 2003 was an improper Request for Continued Examination (RCE) and a copy of that communication is attached hereto.

The undersigned reviewed this notice and determined that it was improper and immediately called Ms. Freda Nelson of Examining Group 1700 and referred her to the copy of the request which indicates that it was clearly a divisional application under 37 CFR 1.53(d). Ms. Nelson agreed with the undersigned and stated that the notice was improperly sent.

The undersigned then asked Ms. Nelson if Applicant needed to do anything further to reply to this notice and was assured by Ms. Nelson that nothing else was required and that she would withdraw this notice. Apparently, the Examiner in charge of this case at the time, namely Adam Meyers of Art Unit 1761, did not receive any such notice of withdrawal and on October 20, 2005 abandoned the above-identified application for failure to respond to the notice of improper Request for Continued Examination, a copy of which is attached hereto and which was downloaded from the USPTO website. Apparently, this notice of abandonment was sent to the wrong address and the undersigned and Applicant discovered this holding of abandonment on

their own investigation after not receiving any communication from the Patent Office for a long while.

The undersigned on behalf of Applicant has been attempting to contact the Examiner, namely Mr. Adam Meyers, but has recently discovered that Mr. Meyers has left the Patent Office. As a result, the undersigned has made several attempts to contact Mr. Meyer's Supervisory Examiner, namely Mr. Cano, but so far has been unable to contact even though the undersigned called and left telephonic messages to call the undersigned with Mr. Cano's voicemail.

In addition, the undersigned has further investigated the facts of this case and has discovered that the Examiner entered an interview summary dated October 14, 2005 indicating that the Examiner had a telephonic interview with the undersigned about the undersigned's failure to respond to the notice of improper RCE of March 26, 2004. The undersigned has no recollection of such a telephonic interview and further investigated the file to find if there was any record in Applicant's file whether such an interview had occurred. The undersigned has found no evidence in the file to indicate that there was any such telephonic interview and also inquired with the other members of undersigned's office to determine if anyone else in the office remembers any such telephonic interview or call. The results of this investigation have been entirely negative and no one remembers any such call or inquiry. The only annotation in undersigned's file is an indication that the undersigned called Ms. Nelson again on May 26, 2004 and was assured that the application was still alive and pending.

In view of the facts set forth above, Applicant respectfully submits that Applicant has done all Applicant can do to correct this matter and respectfully submits that the original notice of improper RCE was improperly issued and the notice of abandonment was as a result of a Patent Office mistake.

Respectfully submitted,  
KODA & ANDROLIA

By: 

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Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office Fax No. (571) 273-8300 on April 11, 2006.

  
William L. Androlia

Name

Signature

4/11/2006  
Date